

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed February 12, 2009. The Applicant traverses the rejections to claims 1-3 and 5-8. Claim 21 has been added and claim 4 has been amended. Reconsideration and allowance of the subject application and presently pending claims 1-8 and 21 is respectfully requested.

I. Response To Claim Rejections Based On Obviousness

In the Office Action, Claims 1-3 and 5-8 are rejected under 35 USC§103(a) as being unpatentable over U.S. Patent No. 5,493,309 to Bjornholt and in view of U.S. Publication No. 20080206551 to Komiak et al. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. See, e.g., In re Dow Chemical, 5 U.S.P.Q. 2d 1529, 1531 (Fed. Cir. 1988), and In re Keller, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

A. Claim 1

Claim 1 is presently written as:

A system for providing a covert warning notification of a hazard to an aircraft, comprising: a detection system capable of detecting said hazard; a transceiver capable of allowing said system to provide said covert warning to a location external from said aircraft; a storage device; a memory; and a processor, configured by said memory to perform the steps of: **determining a**

category of radar system associated with a received signal; determining a modulation scheme, based on said determined category of radar system, for displaying an array of icons on said location external from said aircraft, said array of icons providing said covert warning; and using said received signal to provide said array of icons.

(Emphasis added).

The Examiner's rejection of claim 1 is in error. Claim 1 requires, in part, "determining a category of radar system associated with a received signal." The Examiner asserts on page 3 of the Office Action that Bjornholt teaches this requirement by disclosing, "a processor (32) coupled to a spread spectrum radio (40) for determining a category of radar system (16) associated with a received signal from the aircraft (12, 14) (see figure 1)..." However, the controller (32) coupled with the spread spectrum radio (40) fails to disclose the limitations of claim 1. Specifically, Bjornholt discloses that the spread spectrum radio (40), that the controller (32) is coupled with, "receives data communications... broadcast by any source of location data." [Col. 6, Lines 26-34]. Receiving data is not equivalent to determining a category of radar system associated with a received signal, since receiving data is gaining possession of the data, whereas determining a category of radar system involves an act of evaluating a signal. Since Bjornholt fails to disclose determining a category of radar system associated with a received signal, or any other signal evaluation with a category of radar system, and Komiak fails to overcome the shortcomings of Bjornholt, the §103 rejection is in error. Accordingly, withdrawal of the rejection is respectfully requested.

B. Claims 2-3 and 5-8

The Applicant respectfully submits that since claims 2-3 and 5-8 depend on independent claim 1, claims 2-3 and 5-8 contain all limitations of independent claim 1. Since independent claim 1 should be allowed, as argued above, pending dependent claims 2-3 and 5-8 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q. 2d 1596, 1608 (Fed. Cir. 1988).

II. Claim Additions

Applicant has added new claim 21, dependent on independent claim 1. No new matter has been entered in claim 21, as it is sufficiently enabled and supported by the specification and drawings.

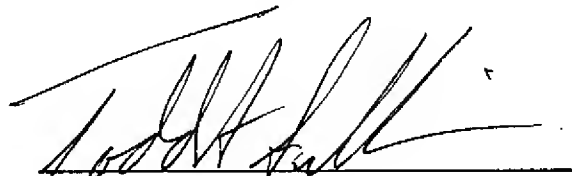
III. Allowable Subject Matter

The Applicant thanks the Examiner for determining that claim 4 contains allowable subject matter. As this claim has now been rewritten in independent form, the Applicants respectfully request withdrawal of the objection of this claim for depending from rejected claims.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and rejections have been traversed, rendered moot and/or accommodated, and that presently pending claims 1-8 and 21 are in condition for allowance. Favorable reconsideration and allowance of the present application and the presently pending claims are hereby courteously requested. If in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (603) 668-1400.

Respectfully submitted,

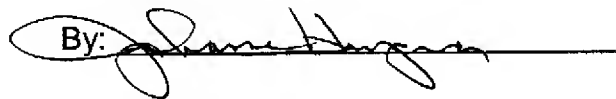


Todd A. Sullivan
Attorney for Applicant
Reg. No. 47,117

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is being deposited with the United States Patent Office via the electronic filing procedure on

February 27, 2009.

By: 

TAS:jah

HAYES SOLOWAY P.C.
3450 E. Sunrise Drive
TUCSON, AZ 85718
TEL. 520.882.7623
FAX. 520.882.7643

175 CANAL STREET
MANCHESTER, NH 03101
TEL. 603.668.1400
FAX. 603.668.8567